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information that many establishments which operate continuously combine the twelve-hour day with the seven-day week and that "under modern industrial conditions excessive hours of work break down health." The authors have succeeded admirably in their evident purpose to diffuse knowledge without heat or light.

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LAW IN THE MODERN STATE. By LEON DUGUIT. Translated by F. and H. LASKI. New York: B. W. HUEBSCH. 1920. pp. xliv, 248.

The main thesis of the author of this volume is the criticism of the doctrine of the sovereign state with which he opens his interesting discussion of political theory and French public law. Although it was a famous French publicist, Jean Bodin, who created the theory of sovereignty in the critical period of transition from feudalism to nationalism, the doctrine has been subjected from time to time to severe criticism by various French writers. In the early part of the XIXth Century the French Constitutionalists strove to find a middle ground between the absolutism of the *ancien régime* and that of the Revolution. The political compromise took the shape of the limited monarchy and the theoretical form was that of the sovereignty of "reason".<sup>1</sup> The cautious Constant and the brilliant Guizot and Cousin were sponsors for the new idea that sovereignty is neither the creature of force nor of the general will, but solely of "reason". Absolute power, said they, belongs only to absolute reason; and as this cannot be predicated of human beings, there is no real sovereignty anywhere.

The modern attack of Duguit and others upon sovereignty is the result of other factors. Traditionally the Continental administration has been above all law except that which is called "administrative law". The bureaucracy tends to expand unduly the power of the state, and produces a spirit of opposition to centralized authority. Further the Syndicalists and the Regionalists wish to obtain a degree of local or group autonomy as against the central government, and are open to any theory that gives promise of help in this quarter. These combined forces produce the present attack upon sovereignty in France, as other forces have produced similar criticism in Germany,<sup>2</sup> and in England under the lead of the Guild Socialists.<sup>3</sup>

Professor Duguit would utterly eliminate the concept of sovereignty from the domain of public law and political theory. The command of the superior, he asserts, is no longer the basis of law, but its foundation is discovered in "service"—public service. Modern state activities are not explainable on the theory of the state as a commanding institution. These activities are in reality social functions, and must be so construed. Law is an "expression of social facts" which the government believes to be the necessary basis of action. This and not the command or will of the state is their foundation. Indeed law is not even the will of the state in Duguit's theory, but merely that of the particular individuals who at any given time happen to enunciate it. There is a law above the government—a "social discipline" on which it rests. The writer does not show how this differs from the "habit of obedience" upon which Austin rested his famous theory of sovereignty.

Professor Duguit does not attempt to provide a substitute for the concept of sovereignty. Dr. Preuss experimented with the term *Herrschaft* which he proposed

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<sup>1</sup> See my *History of the Theory of Sovereignty* (1900) c. V.

<sup>2</sup> See George Meyer, *Staatsrecht* (1872); Hugo Preuss, *Gemeinde, Staat, Reich als Gebietskörperschaften* (1889).

<sup>3</sup> G. D. H. Cole, *Social Theory* (1920).

as an alternative, while Mr. Cole proffers us the "functional state" exercising the powers of "a democratic supreme court of functional equity". Duguit's nearest approach is the "social discipline" necessary to effectuate certain precepts laid down by those who are acting as governors.

In the discussion of "Administrative Acts" and "Administrative Law," Duguit is somewhat less concerned with the utter and immediate destruction of sovereignty, and presents a lucid and significant discussion of the trend of certain recent decisions of the French Council of State. He traces the development of the personal responsibility of administrative officials and cites many interesting cases by way of illustration. He outlines the gradual delimitation of the frequent plea of "political reasons", and the growth of the doctrine of *ultra vires* with respect to large classes of official acts hitherto held virtually unassailable. Thus a French mayor may not dismiss a policeman, but can suspend him for a week; but when the mayor of Cognac repeatedly suspends the policeman, the Council of State annuls his decree.

An interesting line of cases is cited, showing the increasing responsibility of the state in legal actions. In the Pluchard case, for example, a citizen is knocked down by a policeman in pursuit of a fleeing criminal and the citizen's leg is broken. Although the officer is not at fault, compensation is granted to the injured by-stander by the courts. The general principle is, says Duguit, that whenever the action of the state "involves special prejudice to a private citizen, the national exchequer must bear the burden of it."

The chief significance of this volume, as of the other writings of this brilliant publicist, is found in the strong emphasis on the doctrines of social interdependence, social obligation, social discipline, social or public service as the sources of law and authority. In some ways these doctrines resemble the older theories of the natural law school. The modern theories, however, are filled with the spirit of the modern social movement, and are full of the language both of sociology and of socialism. They aim fundamentally at a reconstruction of law and politics in terms of social and political forces, newly conceived and interpreted. In reality their aim does not require the destruction of the state, but its reorganization under more democratic auspices, and its interpretation in more modern language, in terms of a new social philosophy. Social control and political control and co-ordination continue through the shifting of political or social philosophy and the struggles of classes and groups for the symbols and the substance of power.

The study of Professor Duguit is of intense interest and great value to all serious students of the tendencies of modern public law and politics. The illuminating introduction by Professor Laski adds to the value of the translation.

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THE LAW OF DAMAGES AND COMPENSATION. Second Edition. By F. O. ARNOLD. London: BUTTERWORTH & CO. 1919. pp. lxxxvi, 354.

The first chapter contains a very cursory classification and definition of terms, the second a very condensed survey of some of the most elementary principles of damages. The last chapter deals with procedure. The ten intervening chapters deal with the law of damages "in relation to specific subject matters"—Real and Leasehold Property, Personal Property, Contracts of Carriage, etc.

"It is submitted," says the author, "that this method of treating the law of damages is preferable to a continuous general treatment of the whole subject. Thus, the principles which govern the damages recoverable for breach of a contract re-